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FISCAL IMPACT STATEMENT

LS 7317

BILL NUMBER: HB 1396

NOTE PREPARED: Jan 1, 2003

BILL AMENDED:

SUBJECT: School employees and children.

FIRST AUTHOR: Rep. Torr

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill has the following provisions:

(A) The bill enables school corporations to obtain limited and national criminal history checks for all employees rather than only for new employees.

(B) The bill enables the Professional Standards Board to suspend a teacher's license for certain types of noncriminal behavior.

(C) The bill requires certain officials to report when a teacher is arrested for or convicted of a crime or is dismissed or resigns because of certain types of behavior. The bill provides civil immunity for making these reports.

(D) The bill makes uniform the grounds for which licenses may be revoked and for which the contracts of teachers may be canceled because of sexual misconduct with a minor.

(E) The bill authorizes suspension without salary for teachers charged with certain crimes.

(F) The bill requires certain persons to report to authorities when they believe that a child is the victim of certain crimes.

(G) The bill changes the law concerning seduction of a child at least 16 years of age to specify certain additional types of behavior that constitute the offense and to expand coverage to all employees of a child's school.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (A) *Summary:* Under the bill, the Indiana State Police may have an increase in expenditures concerning processing of additional criminal background checks. The impact would be dependent on local action concerning a school corporation that is required to adopt a policy to require background checks for all certified and non-certified school corporation employees. School boards would also have the option to require background checks for applicants and hired individuals.

(B) *Summary:* The Indiana Professional Standards Board could require an increase in expenditures to cover printing and mailing notices for a hearing. If additional revocation hearings were to occur, the Board could include these hearings during the course of business of a scheduled meeting. Through October of 2002, the Board has met eight times for the year. The Board met seven times during CY 2001.

Background: After a complaint against a license holder is filed by the Department of Education, an administrative law judge presides over an adjudication proceeding where the individual with the license may present their case. Once the judge has ruled, the Board would hold a meeting to determine if the ruling of the judge will be upheld.

(G) *Summary:* If more convictions of child seduction (Class D felony) occur due to this provision, the state would incur an increase in expenditure to house convicted individuals sentenced to a prison term. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (A) *Summary:* If additional background checks occur under the bill, revenue would increase. Approximately \$1.75 M in state revenue was collected from background checks of all types in FY 2001. Revenue from background checks are deposited into the state General Fund.

Background: Currently the following civilian background checks are performed or processed by the Indiana State Police:

Type of Check	Fee
Limited Criminal History	\$7
ID Billing	\$7
Review/Challenge (fingerprint check)	\$10
Non-Profit	\$0
Full Statewide (includes fingerprints)	\$10
National Volunteer Check (42 U.S.C. 5119a & IC 5-2-5-15)	\$28 (\$10 to State of Indiana, \$18 to Federal Government)
National Employment Check	\$34 (\$10 to State of Indiana, \$24 to Federal Government)

The following table shows the number of civilian background checks processed over the last three years:

Year	Number of Background Checks
CY 2001	265,278
CY 2000	262,661
CY 1999	215,426

Currently, breakdowns are not available for the number of teacher applicants or school volunteers that were processed for a background check.

(B) Summary: If more revocations of teacher licenses are carried out as a result of the bill, fewer license renewal fees would be collected. It is believed the reduction to state revenue would be minimal. Effective January 1, 2002, teacher license fees are \$35. In FY 2002 the Board collected \$442,335 in teacher license revenue. All fees from teacher licenses are deposited into the state General Fund.

Background: Current law allows for the permanent revocation of a teacher license for the following offenses (IC 20-6.1-3-7(c)):

Offense	Classification
Rape	Class B felony (Class A if with deadly force/weapon)
Criminal deviate conduct	Class B felony (Class A if with deadly force/weapon)
Child molesting	Class C felony (Class A if with deadly force/weapon)
Child exploitation	Class D felony (Class C if it is committed by using a computer network)
Vicarious sexual gratification	Class D felony (Class C if child involved in the offense is under the age of 14; Class B if with deadly force/weapon or use of drugs to induce)
Child solicitation	Class D felony (Class C if it is committed by using a computer network)
Child seduction	Class D felony (Class C if deadly force/weapon or use of drugs to induce)
Sexual misconduct with a minor	Class C felony (Class B if offender is 21 years or older; Class A if with deadly force/weapon or use of drugs to induce)
Incest	Class C felony. (Class B if victim is less than 16 years of age.)

Revocation Data: The following table illustrates the number of teacher license revocations and comments on the reason.

Year	Number of Revocations	Comments
CY 2002	14*	At least five of the revocations were for an offense under section 7(c) in the previous table.
CY 2001	10	At least two of the revocations were for an offense under section 7(c) in the above table.
CY 2000	6	Five of the revocations were for sexual misconduct with a minor (section 7(c) violation listed above). The remaining revocation was for a section 7(a) violation: immorality, misconduct in office, incompetency, willful neglect of duty.
CY 1999	7	Two of these revocations were for at least one of the offenses listed above (IC 20-6.1-3-7(c)). Two other revocations were due to immorality as listed in current law under (IC 20-6.1-3-7(a)).

*Through October 2002

(G) Summary: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: **(A) Summary:** The impact of this provision would depend on local action and the school corporation. Currently, payment by either a teacher applicant or a school corporation for a criminal background check on the applicant depends on the payment policy of the school corporation.

At least one school corporation splits the cost of payment with the applicant for certain background checks.

(C) Summary: If formal notification of an arrest is made in writing, the local law enforcement agency or prosecuting attorney would experience a slight increase in expenditure for postage and printing of notice.

(D) Summary: If additional semipermanent or permanent teachers were to have their contract terminated under this provision, the school board would not have to pay the remaining amount on the terminated teacher's contract. The money earmarked for the payment of a dismissed teacher's contract would be retained in the school corporation's general fund. The school corporation could use these funds for the hiring of a replacement teacher.

(E) Summary: If a teacher is suspended without pay, under the bill, the suspending school corporation would save the expenditure of the suspended teacher's salary. However, if a suspended teacher without pay is reinstated, the school corporation would be required to restore the teacher's salary that was withheld during the period of suspension.

(G) Summary: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: **(G) Summary:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Department of Education, Professional Standards Board, Department of Correction.

Local Agencies Affected: School corporations, trial courts, local law enforcement agencies.

Information Sources: Philip McGovern, Indiana Professional Standards Board, (317) 232-9018; Indiana Professional Standards Board website: <http://www.in.gov/psb/board>; Kevin McDowell, Department of Education, (317) 232-6647; Indiana State Police; Rod Elsemer, Indiana State Teacher's Association, (317) 263-3400; Office of the Auditor of State, Budget Revenue Trial Balance, June 30, 2001; DOE ORACLE and SAS databases; Department of Correction, Indiana Sheriffs Association.

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